

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #4	CCRB Case #: 202000378	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 08/23/2018 6:00 AM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 2/23/2020	EO SOL 2/23/2020	
Date/Time CV Reported Wed, 01/15/2020 3:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/15/2020 3:07 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Vincent Demarino	01204	953812	083 DET
2. SSA Mariluz Benitez	02423	917041	083 DET
3. An officer			083 DET

Officer(s)	Allegation	Investigator Recommendation
A.SSA Mariluz Benitez	Abuse: Sergeant Mariluz Benitez entered § 87(2)(b) in Brooklyn.	[REDACTED]
B.SSA Mariluz Benitez	Abuse: Sergeant Mariluz Benitez searched § 87(2)(b) in Brooklyn.	[REDACTED]
C.DT3 Vincent Demarino	Force: Detective Vincent Demarino used physical force against § 87(2)(b)	[REDACTED]
D. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	[REDACTED]

Case Summary

On January 15, 2020, § 87(2)(b) filed this complaint with the CCRB by phone on her own behalf and on behalf of her adult son, § 87(2)(b).

On August 23, 2018, at approximately 6:00 a.m., Sergeant Mariluz Benitez, Detective Vincent Demarino, and additional officers from the 83rd Precinct Detective Squad entered and searched § 87(2)(b)'s apartment at § 87(2)(b) in Brooklyn pursuant to a search warrant (**Allegations A-B: Abuse of authority, § 87(2)(g)**). Det. Demarino allegedly kicked § 87(2)(b) (**Allegation C: Force, § 87(2)(g)**). § 87(2)(b) alleged that her safe was broken (**Allegation D: Abuse of authority, § 87(2)(g)**).

The officers found crack cocaine and arrested § 87(2)(b) for § 87(2)(b).

At the time of incident, the 83rd Precinct Detective Squad was not equipped with body-worn cameras. No video evidence was obtained in this case.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Mariluz Benitez entered § 87(2)(b) in Brooklyn.

Allegation (B) Abuse of Authority: Sergeant Mariluz Benitez searched § 87(2)(b) in Brooklyn.

It is undisputed that officers entered and searched § 87(2)(b)'s apartment pursuant to a search warrant supervised by Sgt. Benitez.

Search warrant #§ 87(2)(b), obtained by Det. Demarino, was signed on § 87(2)(b) by the Honorable Kings County § 87(2)(b) and was executed on August 23, 2018 (Board Review 01).

As per Criminal Procedure Law 690.05, officers may forcibly enter and search a location for which they have a valid search warrant (Board Review 02).

§ 87(2)(g)

Allegation (C) Force: Detective Vincent Demarino used physical force against § 87(2)(b).

§ 87(2)(b) testified that at the time of incident he was in the living room about to eat breakfast when four or five officers entered the apartment (Board Review 03). The first officer to enter appeared to be a six-foot-tall male with a heavy build, light complexion, and bald head. The officer carried a flashlight and a gun. The officer told § 87(2)(b) to “get down” twice. § 87(2)(b) raised his hands above his head and asked, “For what?” but did not otherwise move. The officer kicked § 87(2)(b) in his lower abdomen between the groin and belly button with the bottom of his boot. § 87(2)(b) fell to his knees. A second officer handcuffed § 87(2)(b) and helped him to the couch. § 87(2)(b) remained on the couch until officers removed him from the apartment. § 87(2)(b) sustained swelling and bruising in his lower abdomen. § 87(2)(b) visited Interfaith Hospital days after this incident.

Medical records related to § 87(2)(b)'s doctor visit were requested and will be added to the case file upon receipt.

According to his NYPD pedigree sheet, Det. Demarino is a 5'10" white male who is approximately 180 lbs. with brown hair and brown eyes (Board Review 04). The pedigree sheet noted that Det. Demarino has a full head of short, straight hair. The photo, however, depicts that Det. Demarino has a shaved or balding head. This depiction matches § 87(2)(b)'s description of the subject officer. In addition, Det. Demarino testified that he was the first officer to enter the apartment (Board Review 05). Therefore, the investigation identified Det. Demarino as the subject of this allegation.

Det. Demarino testified that upon entering the apartment he saw § 87(2)(b) on the couch in the living room (Board Review 05). § 87(2)(b) stood up and raised his hands in the air. Det. Demarino did not say anything to or interact with § 87(2)(b) rather, he proceeded past § 87(2)(b) into other areas of the apartment. Det. Demarino did not know who placed § 87(2)(b) in handcuffs. Det. Demarino denied kicking § 87(2)(b). Det. Demarino denied that any officer kicked § 87(2)(b).

Sgt. Benitez testified that she entered the apartment after approximately half the officers were inside (Board Review 06). Sgt. Benitez saw § 87(2)(b) eating breakfast in the living room and saw an officer handcuff him. Sgt. Benitez did not recall who handcuffed § 87(2)(b) or how. Sgt. Benitez did not observe any officer, including Det. Demarino, kick § 87(2)(b).

§ 87(2)(g)

Allegation (D) Abuse of Authority: An officer damaged § 87(2)(b)'s property.

§ 87(2)(b) testified that she arrived home after officers searched the apartment and saw that her safe had been broken apart (Board Review 07). The safe was a two- or three-foot long rectangular box. § 87(2)(b) saw that the rear wall of the box was forced off the safe and that the paperwork inside was strewn about the room. § 87(2)(b) was unable to reattach the rear wall to the safe. § 87(2)(b) did not provide photographs of the broken safe to the CCRB as evidence.

Sgt. Benitez stated that there was no safe inside § 87(2)(b)'s apartment (Board Review 06). Sgt. Benitez denied that officers damaged any property during this search. Similarly, Det. Demarino denied that any property was damaged (Board Review 05).

§ 87(2)(g)

Civilian and Officer CCRB Histories


- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 08).
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- Sergeant Mariluz Benitez has been a member of service for 24 years and has been a subject in one complaint and one allegation which was substantiated (Board Review 09).
 - 9905247 involved a substantiated allegation of physical force against Sgt. Benitez. The CCRB recommended Command Discipline, and the NYPD has not yet imposed discipline.
 - § 87(2)(g)

- Detective Vincent Demarino has been a member of service for seven years and has been a subject in one complaint and two allegations which were not substantiated. § 87(2)(g)
(Board Review 09).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 31, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 10).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 11).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review 11).

Squad No.: 1

Investigator:		<u>Inv. Devaney</u>	<u>09/24/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>09/24/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date